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In re Application of	:	
NAKANO et al.	:	
U.S. Application No. 09/856,402	:	
PCT No.: PCT/JP00/07229	:	DECISION ON PETITION
Int. Filing Date: 18 October 2000	:	UNDER 37 CFR 1.47(a)
Priority Date: 18 October 1999	:	
Attorney Docket No.: EHAR0010	:	
For: POLISHING MACHINE FOR	:	
PERIPHERAL EDGE OF	:	
SEMICONDUCTOR	:	

This is a decision on applicants' "Renewed Petition Under 37 CFR 1.47(a)" filed 24 September 2002.

BACKGROUND

On 18 October 2000, applicants filed international application PCT/JP00/07229 which claimed a priority date of 18 October 1999 and designated the United States. The international application listed Yoshiyuki Nakano; Yasuhir Kosawa; and Hitoshi Tambo as applicant/inventors. A Demand for international preliminary examination was not filed prior to the expiration of nineteen months from the international filing date. Accordingly, the twenty-month period for paying the basic national fee in the United States was midnight, 18 June 2001.

On 21 May 2001, applicants filed a transmittal letter for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); the international application; and a preliminary amendment.

On 21 June 2001, the United States Designated Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a two-month time limit in which to respond.

On 12 October 2001, applicants filed petition under 37 CFR 1.47(a). The petition was dismissed in a decision dated 05 February 2002.

On 07 June 2002, applicants filed renewed petition under 37 CFR 1.47(a). The petition was dismissed in decision dated 04 September 2002 because the declaration was defective pursuant to 37 CFR 1.497.

On 24 September 2002, applicants filed the present renewed petition which was accompanied by untranslated Japanese document.

DISCUSSION

The communication entitled "Renewed Petition under 37 CFR 1.47(a) is not a proper response to the Decision mailed 04 September 2002. Applicant states in the communication that, "[a]pplicant would like to clarify that Teruyuki Nakano is the correct name of the first inventor. A petition to correct inventor's name Yoshiyuki Nakano to Teruyuki Nakano was filed with (the) Japan Patent Office on February 8, 2001 and has been processed by the JPO . . . Applicant believes that this document should have been sent to the United States Patent and Trademark by (the) International Bureau." There is no record of a Notification of the Recording of a Change (Form PCT/IB/306) from the International Bureau located in the application file. Therefore, as stated in the Decision mailed 04 September 2002, since the name change is clearly more than a mere typographical error, transliteration, or a phonetic misspelling of applicant's given name a proper petition under 37 CFR 1.182 is required in order to resolve the matter. Such a petition must be accompanied by the requisite petition fee of \$130 as well as verified statements from the inventor and any other persons having firsthand knowledge of the error. These statements must set forth the specific circumstances as to how and when the error was made and discovered, and must also set forth that the mistake was an inadvertent error without deceptive intent.

Because the failure to file the proper response does not appear to have been the result of an inadvertent omission (37 CFR 1.135(a)), applicant will not be accorded a new time period to correct the deficiencies in the response.

CONCLUSION

A proper response, as discussed above, must be filed within the period for response set forth in the Decision mailed 04 September 2002 which is extendable up to a maximum of five months. As such, using the maximum period of extension available, applicant has until 04 April 2003 to file a proper response or the application will be held abandoned as to the United States.

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.



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